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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/777,306	02/05/2001	Martin L. Hess	3801P001C3	3917

7590 06/04/2004

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EXAMINER

VU, VIET DUY

ART UNIT	PAPER NUMBER
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2154

DATE MAILED: 06/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/777,306

Applicant(s)

HESS ET AL.

Examiner

Viet Vu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 April 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 19-28, 41-45 and 59-76 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 19-28, 41-45 and 59-76 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 4/22/04.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

Art Rejection:

1. The text of 35 USC 103(a) not cited here can be found in the previous office action.

2. Claims 19-28, 41-45 and 59-76 are rejected under 35 U.S.C. §103(a) as being unpatentable over Kernz, U.S. pat. No. 6,366,899, in view of Odom et al, U.S. pat. No. 6,058,379.

Per claims 19-20 and 22, Kernz discloses an electronic auction system and method for facilitating person-to-person commerce comprising:

a) storing at a listing site descriptions of items and thumbnail images including at least first and second images associated with first and second items respectively (see Kernz's col 9, lines 39-45), the images being seller-specified images that are retrieved from a listing site (Kernz's col 7, lines 45-49) or at a remote site (see Kernz's col 13, lines 35-48),

b) combining the first and second images onto a web page for presentation at a remote site in response to a user query (see Kernz's col 9, lines 36-43 and col 12, lines 1-55).

Kernz does not explicitly disclose the steps of retrieving or transmitting seller-specified item descriptions and images from a user site or remote site to the listing site. Odom discloses a prior art electronic auction system comprising a

listing server for retrieving/downloading user-supplied data from a remote site (see Odom's col 9, lines 18-30).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize Odom's image retrieving step in Kernz because it would have allowed Kernz to store and compile data and images on the listing server.

Kernz does not explicitly teach generating thumbnail images from the standard images. An official notice is taken that the method of generating thumbnail images is well known in the art. It would have been further obvious to one of ordinary skill in the art at the time the invention was made to utilize any known technique to generate thumbnail images from standard images in Kernz because it would have enabled providing thumbnail images associated with the listing items (see Kernz's col 9, lines 42-43).

Per claim 21, Odom teaches providing users information related to item including title/identifier, start/stop time, bid history, etc., (see Odom's col 5, lines 11-57).

Per claims 59-60, Odom teaches associated the listing item including description information and images with a listing number or identifier (see Odom's col 5, lines 38-45).

Claims 23-28 and 62-76 are similar in scope than that of claims 19-22 and 59-60 and hence are rejected for the same rationale set forth for claims 19-22 and 59-60.

Per claims 41-45 and 61, Odom teaches registering listing items from a seller (see Odom's col 5, lines 11-38). Odom does not explicitly teach registering the listing items via web pages. It would have been obvious to one of ordinary skill in the art to realize such web-based registration process because it would have enabled both buyer and seller to access listing web server using conventional web browser (see Odom's col 4, lines 61-65 and col 5, lines 46-48).

Response to Amendment:

3. Applicant's arguments filed on 4/16/04 with respect to claims 19-28, 41-45 and 59-76 have been fully considered but they are not deemed persuasive.

Applicant alleges that Kernz does not teach or suggest creating thumbnail images based on images retrieved from a plurality of sites.

This is not found persuasive. The examiner submits that the present claims do not explicitly require the alleged step of creating thumbnail images to be systematically performed by the listing server based upon user-supplied information including

images or locations of images from a plurality of sites. The present claims merely suggest that the thumbnail images could be created or precompiled in the listing database based on previously stored or user-supplied images (from a remote site) but do not specify when or how such thumbnail images are to be created. In Kernz, the thumbnail images are compiled by the listing database for including with sale item descriptions (see Kernz's col 9, lines 39-45). This teaching obviously requires a process to create a thumbnail image from a standard image that would obviously be done by a user or the listing server. Kernz also teaches providing an embedded link within the thumbnail image to the standard images stored at a remote site (see Kernz's col 13, lines 35-47). Thus, it is submitted that those teachings from Kernz collectively suggest creation of thumbnail images based on images retrieved from a remote site.

Applicant also alleges that Kernz does not teach utilizing information including specified locations of the plurality of sites to retrieve the images.

This is not found persuasive. Again, The examiner is unable to find the limitation in the present claims that require the listing server to systematically performing the step of retrieving images from a remote site based upon information supplied by the user. On the other hand, it is generally well

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known in the art that images can be retrieved or downloaded by the server/user from a remote site using specified location of the remote site.

Conclusion:

4. Applicant's amendment necessitated the new grounds of rejection. Accordingly, **THIS ACTION IS MADE FINAL**. See M.P.E.P. § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. § 1.136(a).

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. § 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

Conclusion:

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Viet Vu whose telephone number is (703) 305-9597. The examiner can normally be reached on Monday through Thursday from 8:00am to 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee, can be reached on (703) 305-8498.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-9600.



VIET D. VU
PRIMARY EXAMINER

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6/1/04